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In re Application of
KRAENZLER, et al.
Application No.: 10/564,667
PCT No.: PCT/EP04/52876
Int. Filing Date: 09 September 2004
Priority Date: 20 December 2003
Attorney Docket No.: 3476
For: INSERTION TOOL FOR AN ANGLE
GRINDER

DECISION ON PETITION
UNDER 37 CFR 1.42

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and declaration filed 13 January 2006 is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 09 September 2004, applicant filed international application PCT/EP04/52876, which claimed a priority date of 20 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 June 2006.

On 13 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application, an Information Disclosure Statement, a preliminary amendment, an assignment document and a combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.”

The declaration filed 13 January 2006 was identifies “Mrs. Marcus Heckmann” as legal representative and sole heir to the estate of deceased joint inventor Markus Heckmann. The declaration has been executed by all of the remaining joint inventors and sets forth the residence,

post office address and country of citizenship for both the deceased inventor and the legal representative. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it has not been executed by the legal representative. In addition, the declaration fails to comply with 37 CFR 1.63 in that Mrs. Heckmann's name does not appear on the declaration. 37 CFR 1.63 (a)(2) states that the declaration must identify each inventor by full name, including family name, and at least one given name without abbreviation together with any other given name of initial. If the heiress's name is not provided on a newly filed declaration executed by Mrs. Heckmann, a supplemental declaration or application data sheet will be required.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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